



Kansas Administrative Regulations
Kansas Department of Health and Environment

Notice to Reader

The following regulations represent an electronic facsimile of Kansas Administrative Regulations, promulgated by the Kansas Department of Health and Environment and published by the Kansas Secretary of State. While every effort has been made to assure the accuracy, these electronic copies do not represent the official regulations of the state. The official regulations are the bound copies printed by the Secretary of State.

Where possible KDHE will append changed regulations to the appropriate article. Once again, the lack of any attachments should not be construed as meaning there are no revisions.

Nothing contained herein should be construed as legal advice by KDHE. If you are not an attorney, you should secure competent counsel to interpret the regulations and advise you.

Office of Public Information
Kansas Department of Health & Environment

Notes

The *Kansas Register* notes the following changes:

leased reported on the federal form R shall be determined as follows:

Table 3

Sum of the total chemical Releases reported (pounds)	Annual fee
100 - 19,999	\$250
20,000 - 99,999	\$700
100,000 - 999,999	\$1,700
1,000,000 or greater	\$3,000

(d) Each owner or operator of an oil or gas well that is required to report under section 312 of the federal act and K.A.R. 28-65-3 shall pay an annual fee of \$25. For the purposes of this subsection, the term "well" shall have the meaning given such term by K.S.A. 55-150. The fee required under this section shall be submitted to the department prior to March 1 of each year at the time of submission of the information required on the Kansas tier II form.

(e) Each owner or operator of a facility that contains petroleum fuels as defined in K.A.R. 28-65-2 that is required to report under section 312 of the federal act and K.A.R. 28-65-3 shall be exempt from the fee requirements of subsection (a) of this regulation as applicable to petroleum fuels in storage tanks provided:

(1) The storage tank is registered under the provisions of K.A.R. 28-44-16 or K.A.R. 28-44-29; and

(2) the owner or operator has paid an annual registration fee in compliance with K.A.R. 28-44-17 or 28-44-28; and

(3) the owner or operator has submitted the necessary information to the department on the special storage tank program forms provided by the department to comply with the reporting requirements of section 312 of the federal act, K.A.R. 28-65-3, K.A.R. 28-44-16 and K.A.R. 28-44-29.

(f) Each owner or operator of a facility that qualifies for a fee exemption under subsection (e) of this regulation that has chemicals present other than petroleum fuels that are reportable under section 312 of the federal act and K.A.R. 28-65-3 shall pay annual report fees in compliance with subsection (a) of this regulation as applicable to the remaining chemicals.

(g) Each owner or operator of a facility that qualifies for a fee exemption under subsection (e) may elect to comply with the provisions of these regulations by submitting the Kansas tier II form

in lieu of submitting the required information on the special storage tank program form. Such owners or operators that elect to submit the Kansas tier II form shall calculate and pay annual report fees in compliance with subsection (a) of this regulation as applicable.

(h) Each owner or operator subject to these regulations shall not be assessed an annual report fee in total greater than \$3000 during any single report year excluding late fees.

(i) All fees shall be remitted by check, draft, or money order payable to the department and shall be non-refundable. Any owner or operator may make an aggregate payment covering more than one facility by a single check, draft, or money order provided a statement accompanies each aggregate payment which indicates the individual facility names, addresses, and fees for each facility for which payment is made.

(j) Each owner or operator of a facility subject to these regulations shall not be charged a fee for chemical information submitted on a voluntary basis beyond that required under K.A.R. 28-65-3 provided that the optional nature of the information is clearly marked in the appropriate box on the Kansas tier II form. (Authorized by and implementing K.S.A. 65-5704; effective Nov. 22, 1993; amended Nov. 28, 1994.)

Article 66.—LOCAL ENVIRONMENTAL PROTECTION GRANT PROGRAM

28-66-1. **Definitions** As used in K.A.R. 28-66-1 through 28-66-4 unless otherwise specified:

(a) "Base grant" means state water plan fund monies allocated to the Kansas department of health and environment and awarded to local entities for the purpose of developing and implementing a local environmental protection plan for a term which coincides with the state fiscal year.

(b) "Core program" means services that shall be provided by each local entity that is awarded a base grant, and which include the following:

(1) The development and implementation of an annual local environmental protection plan;

(2) the development, implementation, and enforcement of an environmental code which has been approved by the secretary of KDHE and which establishes standards for the management of on-site wastewater systems for the treatment and disposal of domestic sewage only;

(3) the development, implementation and enforcement of an environmental code which has

been approved by the secretary of KDHE and which establishes standards for the management water supply wells which do not meet the definition of a public water supply well pursuant to K.S.A. 65-162a (b);

(4) information, education, and technical assistance; and

(5) organization and coordination of a local environmental protection committee to provide advice and counsel to the local entity on the content and administration of the local environmental protection plan.

(c) "KDHE" means the Kansas department of health and environment.

(d) "Local environmental protection plan" means a document revised annually by the local entity which includes objectives and workplans intended to implement the environmental protection strategy of the state water plan and which serves as the application for a base grant.

(e) "Local entity" means a county health department formed pursuant to K.S.A. 19-3701 et seq. and amendments thereto, other local entity formed under the power of the board of county commissioners to conduct any of the business of the county pursuant to K.S.A. 1992 Supp. 19-101a, or a multi-county entity formed pursuant to K.S.A. 12-2901 et seq. and amendments thereto.

(f) "Program guidelines" means a document prepared by KDHE by April 1 of each year which establishes program priorities, grant application and program reporting procedures, and other pertinent grant instructions for the next state fiscal year.

(g) "Secretary" means the secretary of KDHE.

(h) "Supplemental program" means any of the following:

(1) The development and implementation of a plan for subdivision water and wastewater pursuant to K.S.A. 1992 Supp. 12-747, K.S.A. 65-3311 and amendments thereto;

(2) the development and implementation of a solid waste management plan pursuant to K.S.A. 65-3405 and amendments thereto;

(3) the development and implementation of a hazardous waste management plan that is consistent with K.S.A. 65-3430 and amendments thereto;

(4) participation in the development and implementation of a nonpoint source pollution control plan which identifies the activities and responsibilities of the local environmental

protection program in the management of non-point pollutant sources; and

(5) the development and implementation of a public water supply protection plan which at a minimum:

(A) specifies the duties of local government agencies, the public water supplier and other local entities in the development and implementation of a public water supply protection plan;

(B) defines the public water supply protection area;

(C) identifies all potential contaminant sources within the defined public water supply protection area;

(D) identifies management practices which may be implemented to prevent contamination of the public water supply by each identified contaminant source, including but not limited to information and education, technical assistance, financial assistance, and the use of local ordinances;

(E) establishes a contingency plan to provide an alternate source of drinking water for each public water supply in the case that the public water supply becomes contaminated;

(F) requires that for any new public water supply all potential contaminant sources within the expected protection area be identified and management practices for each contaminant source identified; and

(G) provides for public participation in the development of any public water supply protection plan.

(i) "Target grant" means funding which may be awarded to a local entity in addition to a base grant for the purpose of conducting an approved program objective for which base grant funds are not sufficient. (Authorized by and implementing K.S.A. 75-5657; effective Feb. 28, 1994.)

28-66-2. Base grants. (a) A local entity may apply for a local environmental protection base grant each year on forms provided by KDHE.

(b) Base grant amounts shall be subject to the availability of funding.

(c) All base grant payments shall be made contingent upon the submission to KDHE of quarterly program and fiscal reports, as required in the grant award agreement, which are determined by KDHE to demonstrate satisfactory progress toward completion of approved program objectives.

(d) Upon approval of its local environmental protection plan by KDHE, a local entity shall be

eligible to receive a base grant for the implementation and maintenance of the approved local environmental protection plan.

(e) Allocation of base grants shall be made in accordance with the following formula where population is the population of the local entity as determined by the most recent United States census figures for the state of Kansas:

(1) Counties with a population less than 12,727 shall be eligible for a base grant which is equal to or greater than \$7,000;

(2) counties with a population greater than 227,273 shall be eligible for a base grant which is equal to or greater than \$125,000;

(3) for all other counties the base grant shall be equal to or greater than the product of the county's population \times \$0.55; and

(4) a local entity which consists of multiple counties shall receive a base grant equal to or greater than the sum of the base grants for which each individual county would be eligible under subsections (e) (1) through (e) (3) of this regulation.

(f) During a given grant period, if the appropriation from the state water plan is not adequate to award each local entity the base grant amount for which it is eligible under subsection (e) of this regulation, then the amount for which the local entity would be eligible under subsection (e) shall be divided by the total amount of funding for which all local entities have applied. The quotient shall then be multiplied by the total amount of funding appropriated for local environmental protection grants to determine the amount of the local entity's grant.

(g) Base grant awards shall be made in the form of an agreement which is signed by the secretary and the signatories of the local environmental protection plan as described in K.A.R. 28-66-4 (a) (1). The agreement shall establish:

(1) A schedule for the payment of the base grant to the local entity;

(2) approved objectives of the local environmental protection plan which the local entity agrees to execute;

(3) quarterly reporting requirements; and

(4) general terms which are necessary to ensure that the grant funds are expended and accounted for in accordance with applicable state statutes.

(h) Local environmental protection grant monies that remain after all base grants have been awarded may be made available to:

(1) Increase the base level of funding for which local entities are eligible as described in subsection (e) of this regulation; or

(2) provide target grants to base grant recipients on a case-by-case basis.

(i) Local environmental protection grant funds may be used to complement but shall not be used to replace financial assistance which a local entity may be eligible to receive from a separate source of funding established to support any core or supplemental program activity.

(j) Eligible program activities and projects. Only those activities and projects which result in the protection and restoration of the waters of the state shall be eligible for base or target grant funding. Eligible program activities include development and implementation of the core program and any supplemental program activity approved by KDHE.

(k) Eligible expenditures. Eligible expenditures of the base grant may include the reasonable and necessary costs of:

(1) Salary of personnel responsible for the execution of a program activity or project included in an approved local environmental protection plan;

(2) in-state and out-of-state travel, except that out-of-state travel shall require prior approval by KDHE unless it is incidental to the implementation of routine program activities included in an approved local environmental protection plan;

(3) capital equipment and supplies necessary to implement all requirements of an environmental code approved by the secretary of KDHE and adopted by resolution by the board of county commissioners, except that all capital equipment purchases greater than \$75.00 shall require prior written approval of KDHE. If a local entity withdraws from the local environmental protection program within three years of any approved capital equipment purchase, KDHE retains the authority to recover the capital equipment;

(4) purchasing, printing, production and dissemination of brochures, educational and technical assistance materials, or surveys;

(5) subcontracts with other governmental entities or private business for the purpose of completing any portion of an approved local environmental protection plan, except that all subcontracts must receive prior approval by KDHE.

(l) Ineligible expenditures. Ineligible expenditures of the base grant include, but are not limited to, the following:

(1) Costs incurred prior to the beginning of the state fiscal year for which the base grant is awarded unless written approval for reimbursement of such costs is provided by KDHE;

(2) costs incurred after the end of the state fiscal year for which the base grant is awarded unless grant funds have been properly encumbered by the local entity;

(3) vehicle purchases; and

(4) construction costs of any facility or structure. (Authorized by and implementing K.S.A. 75-5657; effective Feb. 28, 1994.)

28-66-3. Target grants. (a) Upon KDHE's announcement of the availability of target grant funds, a target grant may be requested by a base grant recipient to conduct an approved objective for which the base grant is inadequate, except that the following requests shall be considered ineligible:

(1) Salary for permanent staff; and

(2) any activity or item specified in K.A.R. 28-66-2 (k).

(b) Application for target grants shall be made on forms provided by KDHE. Forms for target grants shall not be made available until all base grants have been awarded.

(c) All terms of the base grant agreement shall apply to the target grant. (Authorized by and implementing K.S.A. 75-5657; effective Feb. 28, 1994.)

28-66-4. Local environmental protection plan. (a) A local environmental protection plan shall be developed annually by the local entity and shall be submitted and approved by KDHE prior to any grant award. The local environmental protection plan shall contain the following information:

(1) A cover sheet signed by the chairman of the county board of health and the program director appointed by the county board of health. If the grant applicant is a local entity other than a county health department, the local environmental protection plan shall be signed by the chairman of the board of county commissioners, a board formed pursuant to K.S.A. 12-2901 et seq. or K.S.A. 12-2908, or other legally formed board which has been approved by KDHE as appropriate for the purposes of implementing a local environmental protection plan;

(2) a description of existing local ordinances and services in each of the core program and supplemental program areas identified in K.A.R. 28-66-1 (b) and K.A.R. 28-66-1 (h) respectively, including the name, address and phone number of the local person responsible for implementing the ordinances and services described;

(3) a statement of each objective for which funding is being requested, and a workplan which identifies the sequence of steps that will be completed in order to accomplish the stated objective and an approximate date of completion for each step; and

(4) a detailed program budget which identifies the costs of program operation including, but not limited to, personnel, travel, supplies, capital expenditures, and subcontracts.

(b) KDHE may issue a base grant after it has been determined that the local environmental protection plan is consistent with the environmental protection strategy of the state water plan, K.S.A. 75-5657, and all other statutes, regulations, documents or guidelines relevant to sanitary or environmental codes, or both, subdivision water and wastewater management, solid waste, hazardous waste, public water supply protection, and nonpoint source pollution.

(c) KDHE may withhold the approval of a local environmental protection plan if it is determined that the local entity has not satisfactorily completed the approved objectives under the previous year's local environmental protection plan, except that the applicant shall be given the opportunity to demonstrate compelling circumstances which prohibited the completion.

(d) Any local environmental protection plan may be amended during the state fiscal year. Each proposed amendment shall be submitted to KDHE in writing and KDHE shall provide written approval of the amendment. (Authorized by and implementing K.S.A. 75-5657; effective Feb. 28, 1994.)

Article 67.—HEALTH CARE DATABASE

28-67-1. Definitions. For purposes of the regulations in this article, the following words, terms and phrases are hereby defined as follows:

(a) "Aggregate data" means data which is obtained by combining like data in a manner which precludes specific identification of an individual.

(b) "Board" means the health care data governing board.